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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/725,294

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Toru Marumoto

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ALPINE/BHGL
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EXAMINER

COLUCCI, MICHAEL C

ART UNIT

PAPER NUMBER

2626

MAIL DATE

DELIVERY MODE

04/29/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/725,294</p>	<p>Applicant(s) MARUMOTO ET AL.</p>	
	<p>Examiner MICHAEL C. COLUCCI</p>	<p>Art Unit 2626</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 April 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: _____.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Vijay B. Chawan/
for Richemond Dorvil, SPE of Art Unit 2626

/Michael C Colucci/
Examiner, Art Unit 2626

Continuation of 13. Other: Re, prior art not teaching adjusting a signal that was not received at a microphone of the speech communication apparatus. Examiner construes this as merely a signal received into a device that is not from the user, such as the case when a user communicates in a well known cellular phone environment, where the user speaks into a microphone that receives the environment sounds (noise) as well as the speech of a user. Further, the speaker outputs the sounds of received speech. The operation is merely in accordance with the teachings of a cellular communication concept having a microphone for inputting a user's voice and a speaker for hearing any received sound, which would be inherently not from the user (i.e. another user, caller, party, voice, etc.). This concept of communication is both well known and explicitly taught by Urbanski in the form of received mobile radio telephone speech.

Urbanski teaches that in specialized applications involving relatively high background noise environments, most noise suppression techniques exhibit significant performance limitations. One example of such an application is the vehicle speakerphone option to a cellular mobile radio telephone system, which provides hands-free operation for the automobile driver. The mobile hands-free microphone is typically located at a greater distance from the user, such as being mounted overhead on the visor. The more distant microphone delivers a much poorer signal-to-noise ratio to the land-end party due to road and wind noise conditions. Although the received speech at the land-end is usually intelligible, continuous exposure to such background noise levels often increases listener fatigue (Urbanski Col. 1 lines 42-56).

Though Urbanski teaches cellular communication, more specifically in relation to Figure 2 of the present invention, Soli teaches the concept of adjusting speech not received by the user operating the device. With the drawings appearing to have substantial support for adjusting gain not received by the microphone of the user (i.e. the user's voice). The present invention clearly depicts a user having a speaker present for a user to hear speech Rx which has gain adjustment capability, wherein a user hears Rk from the speaker of the device. Thus, Soli teaches auditory prostheses, or hearing aids, a single microphone is used to receive both wanted and unwanted parts of the auditory signal and the total auditory signal is processed to de-emphasize the unwanted part, i.e., the noise, relative to the wanted part, i.e., the speech. For example, a good deal of unwanted noise usually exists in the low frequency bands of speech and can actually mask some of the desired high frequency parts of speech. (This is called the upward spread of masking.) By de-emphasizing the lower frequency parts of the signal, i.e., attenuating the frequencies between 50 and 500 Hertz, for example, the unwanted noise signal is decreased (along with some of the wanted speech signal) making the higher frequency parts of the speech discernible. The overall effect can be to increase the intelligibility of speech in the presence of noise. (Soli Col. 2 lines 1-15).

Further, Soli teaches a solution to the problem of punctate noises is obtained by incorporating automatic gain control (AGC) into the circuitry of the hearing aid. Such circuitry responds to a sudden, high intensity click, by automatically reducing the volume for the duration of the click. This reduces not only the intensity of the sound of the click, but also reduces the intensity of the sound of any intelligence occurring simultaneously with click. Little loss of intelligibility of speech occurs, however, because of the short duration of the gain reduction and the ability of the ear, in cooperation with the brain, to fill in the relatively short information gap depending on the attack and release times of the AGC circuitry (Soli Col. 1 lines 47-59). The received speech at the hearing device and gain control can easily be implemented into the device taught by Urbanski, wherein an additional microphone would allow for a cellular device.

The teachings of Todter also teach this concept of received input speech not from the user and gain adjustment (Todter Fig. 6).

Therefore, with the well known teachings of Urbanski's cellular communication concept and the adjustment of speech not from the user taught by Soli or Todter render the concept of adjusting gain not received by the microphone (intended for the user depicted in Figure 2 of the present invention)..

/Vijay B.Chawan/
Primary Examiner, AU 2626